

EXHIBIT 1

1 HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
2 VIDEOTAPED DEPOSITION OF AHMED TEWFIK, Ph.D.
3 ROUGH DRAFT

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19 REAL-TIME UNEDITED TRANSCRIPTION DISCLAIMER

20 In the Matter Styled Case No. 6:12-CV-00499-MHS

21 Blue Spike, LLC, Plaintiff, vs. Texas Instruments, Inc.,
22 et al, Defendants; In the United States District Court
23 For the Eastern District of Texas.

24 The following transcript of proceedings,
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17
18 Reported by Caroline Chapman, CSR No. 467
19 Videographer Taylor Willis
20 Taken on June 15, 2015
21

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24 VIDEOGRAPHER: Here begins the Videotape
25
26 No. 1 in the Deposition of Dr. Ahmed Tewfik in the
27 matter of Blue Spike, LLC versus Texas Instruments,
28 Inc., Case No. 6:12-CV-00499-MHS.

29 As well as Blue Spike, LLC versus Audible
30 Magic Corporation et al, Case No. 6:12-CV-00576-MHS.

31 In the United States District Court for
32 the Eastern District of Texas, Tyler Division.

33 Today's date is June 15th, 2015. The time
34 on the video monitor is 9:05 a.m.

35 The video operator today is Taylor Willis.

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1 This Video Deposition is taking place at
2 Vinson & Elkins, 2801 Via Fortuna, Suite 100, Austin,
3 Texas 78746.

4 Counsel please voice identify yourselves
5 and state whom you represent.

6 MR. RAMSEY: This is Gabriel Ramsey, along
7 with Alyssa Caridis from Orrick Herrington & Sutcliffe
8 for the Defendant Audible Magic.

9 MR. GARTEISER: This is Randall Garteiser,
10 and with me today is Christopher Honea, Kirk Anderson,
11 and Molly Jones on behalf of the Plaintiff Blue Spike.

12 VIDEOGRAPHER: The court reporter today is
13 Caroline Chapman.

14 Would the reporter please swear in the
15 witness.

16 AHMED TEWFIK,
17 having been first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. RAMSEY:

20 Q. Good morning, Dr. Tewfik.

21 A. Good morning.

22 Q. So have you been deposed before in your --

23 A. Yes, I have.

24 Q. How many times?

25 A. Probably four times.

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1 A. The person cannot do this, as I understand it,
2 and I have a number of patents in my name, I could not
3 do in 2015 redefine terms that I used in a patent that
4 was filed in 1999 or '98. If theres with an a
5 definition, I would have -- if I were using a term in a
6 way that is different from the understanding, the common
7 understanding in the technical community, I would have
8 had to define that explicit in the specifications of the
9 patent. And I don't recall that there was a definition
10 similar to what I am seeing here in the specifications
11 of the patent. If there is, please point it to me.

12 Q. Do you have any reason to doubt Mr. Moskowitz's
13 technical capabilities and his understanding of his own
14 patent?

15 A. Again, Mr. Moskowitz wrote the patent in a
16 particular way, he has particular experience, he has
17 particular training. What he wrote may or may not
18 reflect what he had mind. I have no way of saying that.
19 But once he has written what he wrote and once it has
20 been accepted and the patent issued and interpreted by
21 the Court, that's what I go by.

22 Q. Uh-huh. What Mr. Moskowitz thinks about his
23 patent simply doesn't matter to you, right?

24 MR. ANDERSON: Objection, form.

25 A. What matters to me is the way that the patent

1 after it issued, the way that a person skilled in the
2 art would interpret what they are reading and what the
3 Court construction would say about the various elements
4 of the patent.

5 Q. My question is, does Mr. Moskowitz's view of
6 his patents -- at the time that he wrote them or later
7 on matter to you a bit?

8 A. Again, in the sense -- if he had something in
9 mind and what he wrote was different or was interpreted
10 or was going to be interpreted differently by others
11 unless he has provided something specific in the
12 specifications of the patent or in the claims that
13 completely aligns with his view, if his view is
14 different from how others are interpreting those, then I
15 would go with the general interpretation that a person
16 skilled in the art and the Court would provide.

17 Q. I mean, if Mr. -- so does Mr. Moskowitz's
18 intent when he sat down and wrote and filed these
19 patents -- patents does that matter to you at all, his
20 intent in what he was trying to cover?

21 MR. ANDERSON: Objection, form.

22 A. I -- the -- in rendering my opinion, no, I did
23 not look at his intent. And I could not have guessed
24 what his intent was. And I did not speak to him about
25 his intent.